

**ORIGINAL**

COMMISSIONERS  
KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

**OPEN MEETING ITEM**



0000103425

EXECUTIVE DIRECTOR

**ARIZONA CORPORATION COMMISSION**

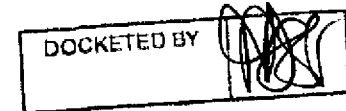
DATE: FEBRUARY 11, 2010

DOCKET NO.: W-03994A-07-0657

TO ALL PARTIES:

Arizona Corporation Commission  
**DOCKETED**

FEB 11 2010



Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Opinion and Order on:

**WICKENBURG RANCH WATER, LLC  
(AMENDING DECISION NO. 70741)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

**FEBRUARY 22, 2010**

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

**MARCH 2, 2010 and MARCH 3, 2010**

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF  
9 WICKENBURG RANCH WATER, LLC  
10 (FORMERLY CDC WICKENBURG WATER,  
11 LLC) FOR APPROVAL OF A RATE  
12 ADJUSTMENT.

DOCKET NO. W-03994A-07-0657

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER AMENDING  
DECISION NO. 70741**

10 DATE OF HEARING: April 22, 2009 (Procedural Conference) and June 15 and  
11 29, 2009

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Sarah N. Harpring

14 APPEARANCES: Mr. Steve Wene, MOYES SELLERS & SIMS LTD., on  
15 behalf of Wickenburg Ranch Water, LLC; and

16 Ms. Janet Wagner, Mr. Kevin Torrey, and Mr. Charles  
17 Hains, Staff Attorneys, Legal Division, on behalf of the  
18 Utilities Division of the Arizona Corporation  
19 Commission.

20 **BY THE COMMISSION:**

21 This case deals with an Application for Rehearing filed by Wickenburg Ranch Water, LLC  
22 ("Wickenburg Ranch") requesting deletion of certain portions of Decision No. 70741 (February 12,  
23 2009) and revision of one conclusion of law therein. The Arizona Corporation Commission  
24 ("Commission") granted Wickenburg Ranch a rehearing in Decision No. 70832 (March 16, 2009),  
25 and a procedural conference and evidentiary hearing followed in April and June 2009. On August  
26 11, 2009, the Commission voted to stay the rehearing proceeding and to reopen Decision No. 70741  
27 under A.R.S. § 40-252 to allow the parties to make proposals regarding revision of Decision No.  
28 70741. On September 25, 2009, Wickenburg Ranch filed a Motion for Commission to Modify  
Decision No. 70741 under A.R.S. §§ 40-252 and/or 40-253, to which the Commission's Utilities  
Division ("Staff") filed a Response on December 23, 2009, requesting that the Hearing Division issue

1 a Recommended Opinion and Order adopting Staff's recommended modifications to Decision No.  
2 70741, to which Wickenburg Ranch does not object.

3 \* \* \* \* \*

4 Having considered the entire record herein and being fully advised in the premises, the  
5 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

6 **FINDINGS OF FACT**

7 1. On November 20, 2007, Wickenburg Ranch filed with the Commission an Application  
8 to Adjust Rates.

9 2. On February 12, 2009, the Commission issued Decision No. 70741, granting  
10 Wickenburg Ranch a rate increase and, among other things, (1) prohibiting Wickenburg Ranch from  
11 selling groundwater for golf course irrigation or ornamental lakes or water features in the common  
12 areas of proposed new developments within its certificated area; (2) requiring Wickenburg Ranch to  
13 implement at least 10 Best Management Practices (as outlined in the Arizona Department of Water  
14 Resources' ("ADWR's") Modified Non-Per Capita Conservation Program); and (3) requiring  
15 Wickenburg Ranch to file for Commission consideration tariffs that would condition the provision of  
16 water service to a customer on implementation of full xeriscape landscaping in front yards and the  
17 installation of rainwater catchment systems.

18 3. On February 26, 2009, Wickenburg Ranch filed an Application for Rehearing,  
19 requesting deletion of the three ordering paragraphs of Decision No. 70741 described above along  
20 with three Findings of Fact supporting those ordering paragraphs (collectively "the contested  
21 provisions")<sup>1</sup> and the revision of Conclusion of Law No. 2, which states that the Commission has  
22 jurisdiction over Wickenburg Ranch and the subject matter of the application, to add that the  
23 Commission does not have jurisdiction over people who own property within Wickenburg Ranch's  
24 certificated area or the private activities conducted by Wickenburg Ranch or those property owners.

25 4. On March 16, 2009, the Commission issued Decision No. 70832, granting  
26 Wickenburg Ranch's Application for Rehearing and directing the Commission's Hearing Division to  
27

28 <sup>1</sup> The contested provisions are Findings of Fact Nos. 18, 19, and 44 (on pages 8 and 17) and the ninth, tenth, and  
eleventh ordering paragraphs (page 20, line 17 through page 21, line 7).

1 conduct a procedural conference at which recommendations as to the processes to be followed for the  
2 rehearing could be presented.

3 5. On March 19, 2009, a Procedural Order was issued scheduling, for April 22, 2009, a  
4 procedural conference at which Wickenburg Ranch and Staff were to present their recommendations  
5 as to the processes that should be followed for the rehearing.

6 6. On April 22, 2009, a procedural conference was held at the Commission's offices in  
7 Phoenix, Arizona. Wickenburg Ranch and Staff appeared through counsel and presented their  
8 recommendations as to the processes that should be followed for the rehearing. It was determined  
9 that an evidentiary hearing would be held and that testimony and legal briefs would be filed before  
10 the hearing.

11 7. On April 22, 2009, a Procedural Order was issued scheduling the hearing to  
12 commence on June 15, 2009, and establishing other procedural requirements and deadlines.

13 8. On May 6, 2009, Wickenburg Ranch filed its Direct Testimony and Exhibits.

14 9. On May 11, 2009, Wickenburg Ranch filed a Notice of Compliance Action Regarding  
15 Best Management Practices ("BMPs"), identifying the 10 BMPs that Wickenburg Ranch had selected  
16 for implementation.

17 10. On May 27, 2009, Staff filed its Pre-Hearing Brief and Staff's Rebuttal Testimony.

18 11. On June 8, 2009, Wickenburg Ranch filed its Reply to Staff's Brief and its Surrebuttal  
19 Testimony.

20 12. On June 15 and 29, 2009, a full evidentiary hearing was held before a duly authorized  
21 Administrative Law Judge of the Commission at the Commission's offices in Phoenix, Arizona.  
22 Wickenburg Ranch and Staff appeared through counsel. Wickenburg Ranch presented the testimony  
23 of William I. Brownlee, Manager for M3 Companies; Marvin Glotfelty, Principal Hydrogeologist for  
24 Clear Creek Associates; Wendell Pickett, Partner and Vice-President of Greey Pickett Partners; Tom  
25 Warley, Development Manager for M3 Companies; Peter Chan, President of CSA Engineering; and  
26 Sonn Rowell, CPA and Regulatory Consultant for Desert Mountain Analytical Services PLLC. Staff  
27 presented the testimony of Steve Olea, then Assistant Director of the Commission's Utilities  
28 Division. At the conclusion of the hearing, Wickenburg Ranch and Staff were directed to file post-

1 hearing briefs and reply briefs concerning the following issues: (1) whether the contested provisions  
2 resolve intermediate issues necessary to set just and reasonable rates; (2) whether rainwater captured  
3 in a catchment system is subject to restrictions on appropriation of water; (3) whether rainwater  
4 catchment systems would subject property owners to liability under A.R.S. § 45-112(A)(7); (4)  
5 whether a requirement for rainwater catchments would necessitate property owner participation in the  
6 ongoing Gila River System litigation; (5) whether and to what extent the Commission has jurisdiction  
7 in the area of regulating groundwater use in Arizona; (6) whether the Commission has sufficient legal  
8 authority to promulgate rules imposing the requirements in the contested provisions; (7) whether  
9 Wickenburg Ranch would be entitled to attorney's fees and costs under several asserted authorities,  
10 including the "private attorney general doctrine," if Decision No. 70741 were not amended and a  
11 successful appeal occurred; (8) whether Wickenburg Ranch was originally denied due process,  
12 whether the rehearing process had remedied any prior due process problems, whether any due process  
13 problems remained, and what could be done to remedy any remaining due process problems; and (9)  
14 whether, as asserted by Wickenburg Ranch, Staff had the burden of proof in the rehearing.

15 13. On June 30, 2009, a Procedural Order was issued memorializing the issues to be  
16 briefed; stating that the post-hearing briefs were to be filed by August 14, 2009; and stating that reply  
17 briefs were to be filed by September 4, 2009.

18 14. On July 13, 2009, Staff filed its Late-Filed Exhibits ("LFEs").

19 15. On July 21, 2009, Wickenburg Ranch filed its LFE and updated contact information.

20 16. On July 31, 2009, Wickenburg Ranch filed a Notice of Compliance Action Regarding  
21 Water Service Tariffs, including two tariffs, one entitled "Installation and Operation of a Rainwater  
22 Catchment System Tariff" and one entitled "Installation and Maintenance of Xeriscaping Tariff."  
23 Wickenburg Ranch also filed a Notice of Compliance Action Regarding Best Management Practices,  
24 in which Wickenburg Ranch submitted an amended list of BMPs<sup>2</sup> selected for implementation as a  
25 result of Wickenburg Ranch's communications with Staff regarding its original list of BMPs. The  
26 amended list of BMPs is attached hereto and incorporated herein as Exhibit A.

27 <sup>2</sup> The amended list of BMPs includes 9 BMPs, most of which are the same as on its prior list, although more  
28 information for each BMP is included in the amended list. The amended list replaced BMP 6.8 with BMP 5.2 and  
dropped BMP 7.7.

1        17. On August 7, 2009, Chairman Kristin Mayes filed a letter in this docket stating that,  
2 from her review of the rehearing processes and docket, it appears that Wickenburg Ranch has  
3 indicated that it is strongly committed to the goal of implementing the best water conservation  
4 measures for itself and its community and has suggestions for reaching that goal. In light of this and  
5 the demands on Staff and Commission resources, the letter suggested that it might be appropriate to  
6 stay the rehearing proceeding to allow Wickenburg Ranch an opportunity to present to the  
7 Commission its suggestions on how to ensure water conservation measures work for all concerned.  
8 The letter stated that the matter would be placed on the next Commission Staff Open Meeting agenda  
9 for discussion and consideration of staying the rehearing proceeding and of modifying Decision No.  
10 70741 under A.R.S. § 40-252 to amend, delete, and/or stay the requirements of the contested  
11 provisions.

12        18. At the Commission Staff Open Meeting on August 11, 2009, which Wickenburg  
13 Ranch attended through counsel, the Commission discussed this matter and voted to reopen Decision  
14 No. 70741 under A.R.S. § 40-252 and to stay the rehearing proceeding to allow the parties to make  
15 proposals regarding the contested provisions.

16        19. On August 12, 2009, a Procedural Order was issued vacating the briefing requirements  
17 announced at the evidentiary hearing on June 29, 2009, and memorialized in the Procedural Order  
18 issued on June 30, 2009, and staying the rehearing proceeding until further order of the Commission.

19        20. On September 25, 2009, Wickenburg Ranch filed a Motion for Commission to Modify  
20 Decision No. 70741 ("Motion"), requesting that the Commission modify Decision No. 70741 under  
21 A.R.S. §§ 40-252 and/or 40-253 by substituting the contested provisions as specified in the Motion.  
22 The requested substitute language is attached hereto and incorporated herein as Exhibit B.  
23 Wickenburg Ranch further requested that the Commission set the Motion for discussion and possible  
24 action at the Open Meeting to be held on October 20 and 21, 2009, and stated that if the Commission  
25 and Wickenburg Ranch resolve the matter, the Commission can amend Decision No. 70741, and  
26 Wickenburg Ranch's Application for Rehearing will be moot or, alternatively, can be withdrawn by  
27 Wickenburg Ranch.

28        21. On December 23, 2009, Staff filed a Response to Wickenburg Ranch's Motion. In its

1 Response, Staff set forth the nine BMPs that Wickenburg Ranch had identified in its amended BMPs  
2 filing; explained that Wickenburg Ranch's Rainwater Catchment Tariff, filed on July 31, 2009, was  
3 provided to satisfy the tenth BMP requirement; and recommended specific modifications to the  
4 contested provisions in Decision No. 70741 regarding BMPs, xeriscaping, and rainwater catchments.  
5 Staff asserted that it had discussed its recommendations with Wickenburg Ranch and that  
6 Wickenburg Ranch had expressed no objections to the recommendations. Specifically, Staff  
7 recommended:

- 8 a. That Wickenburg Ranch be allowed to use two BMPs from Category 2,  
9 Conservation and Education, rather than only one;
- 10 b. That BMP 7.3 and BMP 7.5 be eliminated;
- 11 c. That BMP 2.3 be modified to require that low water use landscaping literature  
12 be provided to all new customers;
- 13 d. That Wickenburg Ranch not be required to institute a rainwater catchment  
14 tariff;
- 15 e. That Wickenburg Ranch be required to provide educational pamphlets to new  
16 customers to inform them how to implement a rainwater catchment system;
- 17 f. That BMP 5.5 (tariff for model home landscapes in new residential  
18 developments) be added, requiring Wickenburg Ranch to file a tariff for the  
19 provision of water service to model homes that requires, as a condition of  
20 service, that companies building homes within Wickenburg Ranch's service  
21 territory use low water landscaping on model homes;<sup>3</sup>
- 22 g. That Wickenburg Ranch be required to file a xeriscape landscaping tariff that  
23 requires, as a condition of service, that a new customer designate a set  
24 percentage of either the customer's front or back yard, or some portion of both,  
25 for the use of xeriscape landscaping, which Staff stated would correspond to  
26 BMP 5.1 (low water use landscaping requirements for residential, multi-

27 <sup>3</sup> Staff included the language "for Commission-approved rates" in its narrative description of this recommendation.  
28 We have omitted this language to be consistent with Staff's ultimate recommendation for ordering paragraph language as  
set forth in Exhibit C hereto.

1 family, non-residential, and/or common areas); and

- 2 h. That the Hearing Division issue a Recommended Opinion and Order adopting  
3 the modifications to Decision No. 70741 set forth by Staff, which are attached  
4 hereto and incorporated herein as Exhibit C, and requiring Wickenburg Ranch  
5 to submit a tariff for Commission consideration for each of the 10 BMPs.

6 22. Wickenburg Ranch has not filed a Reply to Staff's Response.

7 **Discussion and Resolution**

8 23. Staff's recommended modifications to Decision No. 70741 are designed to address the  
9 Commission's concerns related to conservation of groundwater while also alleviating some of the  
10 burden that Wickenburg Ranch asserts would result from the contested provisions.

11 24. Modifying Decision No. 70741 in the manner recommended by Staff would render  
12 Wickenburg Ranch's Application for Rehearing moot. As the parties would have been required to  
13 brief, and the Commission would have needed to resolve, numerous issues related to the Application  
14 for Rehearing, rendering the Application for Rehearing moot would result in a substantial savings of  
15 both time and resources for Wickenburg Ranch, Staff, and the Commission.

16 25. Staff's recommendations would result in Wickenburg Ranch's adopting the following  
17 10 BMPs:

- 18 a. 2.3. New Homeowner Landscape Information: The Company will make  
19 low water use landscape information packets available to all new customers,  
20 either through direct distribution (mail or delivery) or, for newly constructed  
21 homes, through delivery by the home builder.
- 22 b. 2.3 New Homeowner Landscape Information: The Company will make  
23 educational pamphlets regarding how to implement a rainwater catchment  
24 system available to all new customers, either through direct distribution (mail  
25 or delivery) or, for newly constructed homes, through delivery by the home  
26 builder.
- 27 c. 3.6 Customer High-Water-Use Inquiry Resolution: The Company will  
28 assign a designee(s) to assist customers with their high-water-use complaints.



1 The program will include site inspection when warranted to discover the cause  
2 of an increase in a customer's water bill. The Company will follow up in some  
3 way on every customer inquiry and keep a record of inquiries and follow-up  
4 activities.

5 d. 3.7 Customer High-Water-Use Notification: The Company will monitor  
6 customers for high water use, as determined by comparing the customers'  
7 previous water usage with water use by other similarly situated customers.  
8 The Company will contact any high-water-use customers via telephone, by e-  
9 mail, by mail, or in person and will provide such customers information on  
10 water savings devices, techniques, and rebate programs as appropriate. The  
11 type of notification and the criteria used for determining which customers are  
12 notified will be recorded in writing.

13 e. 3.8 Water Waste Investigations and Information: The Company will assign  
14 a designee(s) to assist customers with water waste complaints. A complaint  
15 investigation would typically include a site inspection and some type of  
16 follow-up action, such as education of the customer to prevent water waste.  
17 The Company will follow up in some way on every water waste complaint and  
18 keep a record of complaints and follow-up activities.

19 f. 4.1 Leak Detection Program: The Company will implement a systematic  
20 evaluation of its water distribution system to identify and fix leaks. The  
21 Company will implement this program throughout its service area unless the  
22 Company reasonably concludes that targeting certain portions of the water  
23 service area is likely to yield the highest potential water savings.

24 g. 4.2 Meter Repair and/or Replacement Program: The Company will  
25 implement a program to systematically assess the meters in its water service  
26 area to identify under-registering meters and to repair or replace them.

27 h. 5.1 Low Water Use Landscaping Requirements for Residential, Multi-  
28 Family, Non-Residential, and/or Common Areas: The Company will file a

1 xeriscape landscaping tariff that requires, as a condition of service, that each  
2 new customer designate a set percentage of either the customer's front or back  
3 yard, or some portion of both, for the use of xeriscape landscaping.

4 i. 5.2 Water System Tampering: Pursuant to A.R.S. § 40-492 et al., the  
5 Company may bring an action for damages or to enjoin any activity against a  
6 person who: (1) makes a connection or reconnection with property owned or  
7 used by the Company to provide utility service without the Company's  
8 authorization or consent; (2) prevents a Company meter or other device used to  
9 determine the charge for utility services from accurately performing its  
10 measuring function; (3) tampers with property owned or used by the Company;  
11 or (4) uses or receives the Company's services without the authorization or  
12 consent of the Company and knows or has reason to know of the unlawful  
13 diversion, tampering, or connection. If the Company's action is successful, the  
14 Company may recover as damages three times the amount of actual damages.

15 j. 5.5 Tariff for Model Home Landscapes in New Residential Developments:  
16 The Company will file a model homes tariff that requires, as a condition of  
17 service, that a company building homes within Wickenburg Ranch's service  
18 territory use low water landscaping on each model home.

19 26. Staff's recommendations set forth in Findings of Fact No. 21 are just and reasonable  
20 and in the public interest and should be followed, with the clarification that for purposes of the  
21 deadline in Exhibit C, "the effective date of this Decision" mean the effective date of this Decision  
22 rather than Decision No. 70741.

### 23 CONCLUSIONS OF LAW

24 1. Wickenburg Ranch is a public service corporation within the meaning of Article XV  
25 of the Arizona Constitution and A.R.S. Title 40, Chapter 2.

26 2. The Commission has jurisdiction over Wickenburg Ranch and the subject matter of its  
27 Motion.

28 3. A.R.S. § 40-252 authorizes the Commission to amend any decision made by it at any

1 time upon notice to the corporation affected and after opportunity to be heard as upon a complaint.

2 4. A.R.S. § 40-253 authorizes the Commission, after a rehearing and consideration of all  
3 the facts, including those arising since the making of the order or decision, to abrogate, change, or  
4 modify the order or decision, if the Commission finds that the original order or decision or any part  
5 thereof is in any respect unjust or unwarranted or should be changed.

6 5. Wickenburg Ranch was provided notice of the Commission's rehearing process and  
7 participated actively in the rehearing process under A.R.S. § 40-253.

8 6. Wickenburg Ranch was provided notice of and attended the Commission Staff Open  
9 Meeting at which the Commission voted to stay the rehearing process to consider modification of  
10 Decision No. 70741 under A.R.S. § 40-252.

11 7. Wickenburg Ranch was provided notice of Staff's Response to Wickenburg Ranch's  
12 Motion and has not objected to Staff's recommendations therein.

13 8. Wickenburg Ranch has not requested an additional evidentiary hearing in this matter.

14 9. It is in the public interest for the Commission, under the authority of A.R.S. § 40-252,  
15 to amend Decision No. 70741 as set forth in Exhibit C hereto, with the clarification that for purposes  
16 of the deadline in Exhibit C, "the effective date of this Decision" mean the effective date of this  
17 Decision rather than Decision No. 70741.

18 10. It is not necessary for the Commission to hold an additional evidentiary hearing before  
19 amending Decision No. 70741 as set forth in Exhibit C hereto.

20 11. Upon the effective date of this Decision, Wickenburg Ranch's Application for  
21 Rehearing will be rendered moot.

22 **ORDER**

23 IT IS THEREFORE ORDERED that Decision No. 70741 is hereby amended as set forth in  
24 Exhibit C hereto, with the clarification that for purposes of the deadline in Exhibit C, "the effective  
25 date of this Decision" means the effective date of this Decision rather than Decision No. 70741.

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that this Decision renders Wickenburg Ranch's Application for  
2 Rehearing moot.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
5

6 CHAIRMAN

COMMISSIONER

8 COMMISSIONER

COMMISSIONER

COMMISSIONER

9  
10 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
11 Executive Director of the Arizona Corporation Commission,  
12 have hereunto set my hand and caused the official seal of the  
13 Commission to be affixed at the Capitol, in the City of Phoenix,  
14 this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

14 ERNEST G. JOHNSON  
15 EXECUTIVE DIRECTOR

16  
17 DISSENT \_\_\_\_\_

18  
19 DISSENT \_\_\_\_\_

SNH:db

1 SERVICE LIST FOR:

WICKENBURG RANCH WATER, LLC

2 DOCKET NO.:

DOCKET NO. W-03994A-07-0657

3 Steve Wene

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12 Steven M. Olea, Director

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13 ARIZONA CORPORATION COMMISSION

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14 Phoenix, AZ 85007

## EXHIBIT A

## IMPLEMENTATION OF 10 BEST MANAGEMENT PRACTICES PROGRAMS

(2.3) *New homeowner Landscape Information*

The Company will make low water use landscape information packets available to all new owners of newly constructed homes, either through direct distribution (mail or delivery) or through delivery by the home builder. The Company will also notify new owners of existing homes (resale) that information on low water use landscaping is available and will provide such information on request.

(3.6) *Customer High Water-Use Inquiry Resolution*

The Company will assign a designee(s) to assist customers with their high water-use complaints. The program will include site inspection when warranted to discover the cause of an increase in a customer's water bill. The Company will follow up in some way on every customer inquiry and keep a record of inquiries and follow-up activities.

(3.7) *Customer High Water Use Notification*

The Company will monitor customers for high water use, as determined by comparing the customers' previous water usage and water use by other similarly situated customers. The Company will contact any high water use customers via telephone, by email, by mail or in person and will provide such customers information on water savings devices, techniques, and rebate programs as appropriate. The type of notification and the criteria used for determining which customers are notified will be recorded in writing.

(3.8) *Water Waste Investigations and Information*

The Company will assign a designee(s) to assist customers with water waste complaints. A complaint investigation would typically include a site inspection and some type of follow-up action, such as education of the customer to prevent water waste. The Company will follow-up in some way on every water waste complaint and keep a record of complaints and follow-up activities.

(4.1) *Leak Detection Program*

The Company will implement a systematic evaluation of its water distribution system to identify and fix leaks. The Company will implement this program throughout its service area unless the Company reasonably concludes that targeting certain portions of their water service area is likely to yield the highest potential water savings.

(4.2) *Meter Repair and/or Replacement Program*

The Company will implement a program to systematically assess the meters in its water service area to identify under-registering meters and to repair or replace them.

(5.2) *Water System Tampering*

Pursuant to A.R.S. § 40-492, *et al.*, the Company may bring an action for damages or to enjoin any activity against a person who: (1) makes a connection or reconnection with property owned or used by the Company to provide utility service without the Company's authorization or consent; (2) prevents a Company meter or other device used to determine the charge for utility services from accurately performing its measuring function; (3) tampers with property owned or used by the Company; or (4) uses or receives the Company's services without the authorization or consent of the Company's and knows or has reason to know of the unlawful diversion, tampering or connection. If the Company's action is successful, the Company may recover as damages three times the amount of actual damages.

(7.3) *Evaluation of New and Emerging Technologies and Practices*

The Company will conduct a systematic evaluation of conservation measures already implemented as well as state of the art water conservation technologies and techniques. Each year the Company will research and review new technologies and practices and draft a conservation technology and practice report stating the objectives of the evaluation, methods used to conduct the evaluation, and results of the investigation.

(7.5) *Implementation of Smart Irrigation Technology*

The Company will conduct a systematic evaluation of smart irrigation technology already implemented as well as new related technologies. The Company will draft an annual report briefly describing the project location, implementation methods, and estimates of irrigation efficiency or water savings, as appropriate.

## EXHIBIT B

- 1 • **Page 8, ¶ 18.** Although Wickenburg Ranch is located outside an Active  
2 Management Area, it has pledged to implement certain conservation goals and  
3 management practices of the Arizona Department of Water Resources ("ADWR").  
4 Wickenburg Ranch is willing to implement, at least 10 Best Management Practices  
5 ("BMP") (as outlined in ADWR's Modified Non-Per Capita Conservation  
6 Program), and only one of these BMPs is from the "Public awareness/PR or  
7 Education and Training categories of the BMPs.
- 8 • **Page 8, ¶ 19.** Knowing that the Commission has become increasingly concerned  
9 with the prolonged drought in Central Arizona, the Company has submitted tariffs  
10 for Commission consideration that encourage groundwater conservation by  
11 providing incentives for customers to implement full xeriscape landscaping and  
12 install rainwater catchment systems.
- 13 • **Page 17, ¶ 44.** Knowing that the Commission has become increasingly concerned  
14 about the prolonged drought in Central Arizona, Wickenburg Ranch has agreed to  
15 facilitate groundwater conservation by pledging to not sell groundwater to irrigate  
16 the golf course, fill ornamental lakes, or provide water for water features located  
17 in the common areas of the proposed new developments within the certificated  
18 area. Wickenburg Ranch has further pledged to work with the wastewater  
19 provider for its certificated area, once that wastewater provider is approved, to  
20 ensure that effluent is used to irrigate the golf course, fill ornamental lakes, or  
21 provide effluent for water features once effluent is being produced.
- 22 • **Page 20, line 17.** IT IS FURTHER ORDERED that, in light of the ongoing  
23 drought conditions in Central Arizona and the need to conserve groundwater, and  
24 consistent with its pledges in this proceeding, Wickenburg Ranch Water, LLC,  
25 may not sell groundwater to irrigate the golf course, fill ornamental lakes, or  
26 provide water for water features located in the common areas of the proposed new  
27 developments within the certificated area.
- 28 • **Page 20, line 22.** IT IS FURTHER ORDERED that, consistent with its pledges in  
this proceeding, Wickenburg Ranch Water, LLC, shall implement the 10 Best  
Management Practices that it has submitted to Docket Control on July 31, 2009.
- **Page 20, line 27, through page 21, line 7.** IT IS FURTHER ORDERED that,  
consistent with its pledges in this proceeding, the Company shall provide  
incentives for its customers to implement full xeriscape landscaping and install  
rainwater catchment systems as set forth in the tariffs submitted by the Company  
to Docket Control on July 31, 2009.



1 DELETE at page 8, lines 2-8:

- 2 18. Although Wickenburg Ranch is located outside an Active Management Area, it  
3 should nonetheless be required to comply with some of the conservation goals and  
4 management practices of the Arizona Department of Water Resources ("ADWR").  
5 We will require Wickenburg Ranch to implement, within 90 days of the effective date  
6 of this Decision, at least 10 Best Management Practices ("BMP") (as outlined in  
7 ADWR's Modified Non-Per Capita Conservation Program). Only one of these  
8 BMP's shall come from the "Public awareness/PR or Education and Training  
9 categories of the BMPs.

8 INSERT at page 8, line 2:

- 9 18. Although Wickenburg Ranch is located outside an Active Management Area, it  
10 has pledged to implement certain conservation goals and management practices of the  
11 Arizona Department of Water Resources ("ADWR"). Wickenburg Ranch will submit,  
12 for Commission consideration, at least 10 Best Management Practices ("BMP") (as  
13 outlined in ADWR's Modified Non-Per Capita Conservation Management Program).  
14 Two of these BMPs may come from the Conservation Education and Training  
15 category of the BMPs. The Company will provide to all new customers information  
16 on (1) low water use landscaping as well as (2) how to implement a rainwater  
17 catchment system.

15 DELETE at page 8, lines 9-20:

- 16 19. Because the developer in this case has insisted on building a golf course prior  
17 to the availability of effluent for the irrigation of that golf course, and because the  
18 Commission has becoming increasingly concerned with the prolonged drought in  
19 Central Arizona, we believe it is in the public interest to require, as a compliance item  
20 in this case, the Company to file appropriate tariffs for Commission consideration that  
21 would condition the provision of water service to any customer on the implementation  
22 of full xeriscape landscaping in front yards, as well as the installation of rainwater  
23 catchment systems. These tariffs shall contain, at a minimum, the requirements for  
24 implementing such a condition of service, details of the estimated costs to the  
25 Company, if any, associated with implementation of the condition of service, proposed  
26 customer fees and charges, and any other information that Wickenburg Ranch believes  
27 would assist the Commission in evaluating these tariffs. These tariffs shall also  
28 demonstrate compliance with all applicable requirements of ADEQ and any  
applicable local codes.

25 ...

26 ...

27 ...

28 ...

INSERT at page 8, line 9:

19. Because the Commission has become increasingly concerned with the prolonged drought in Central Arizona, we believe it is in the public interest to require the Company to file a xeriscape landscaping tariff that requires, as a condition of service, all new customers to designate a set percentage of either their front or back yard, or some portion of both, for the use of xeriscape landscaping which would correspond to ADWR BMP 5.1. Additionally, the Company shall file a tariff for provision of water service to model homes that requires, as a condition of service that companies building homes within Wickenburg Ranch's service territory use low water landscaping on model homes.

DELETE at page 20, lines 22-26:

IT IS FURTHER ORDERED that Wickenburg Ranch Water, LLC, shall implement, within 90 days of the effective date of this Decision, at least 10 Best Management Practices (as outlined in ADWR's Modified Non-Per Capita Conservation Program) and submit those Best Management Practices to Docket Control within 90 days of the effective date of this Order. Only one of these BMPs shall come from the "Public awareness/PR or Education and Training categories of the BMPs.

INSERT at page 20, line 22:

IT IS FURTHER ORDERED that Wickenburg Ranch Water, LLC, shall submit, for Commission consideration, within 90 days of the effective date of this Decision proposed tariffs for the 10 Best Management Practices that it filed in this Docket on July 31, 2009, as modified by the Staff recommendations filed on December 23, 2009.